12.00 NOON

PAPERS LAID ON THE TABLE

Notifications under the Customs Tariff Act, 1975 and related papers

MR. CHAIRMAN: Now papers to be laid on the Table.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARI): On behalf of Shri Vishwanath Pratap Singh, Minister of Finance, Sir, I beg to lay on the Table, under section 10 of the Customs Tariff Act, 1975, a copy each (in English and Hindi) of the following Notifications of the Ministry of Finance (Department of Revenue), together with Explanatory Memoranda thereon :—

(i) G.S.R. No. 704(E), dated the 2nd September, 1985, publishing the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Bounty-fed Articles and for Determination of Injury) Rules, 1983.

(ii) G.S.R. No. 705(E), dated the 2nd September, 1985, publishing the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1985.

Placer in Library. *See* No. LT—1492/85 for (i) and (ii).]

Notifications under the Indian Electricity Act, 1910

THE MINISTER OF STATE IN THE DEPARTMENT OF POWER (SHRI ARIF MOHD. KHAN): Sir, I beg to lay on the Table, under subsection (3) of section 38 of the Indian Electricity Act, 1910 a copy each (in English and Hindi) of the following Notifications of the Ministry of Irrigation and power (Department of Power):—

(i) G.S.R. No. 732, dated the 2nd August, 1985, publishing the Indian Electricity (Amendment) Rules, 1985, alongwith a Statement showing the reasons for Amendment.

(ii) G.S.R. Nos. 843 and 844, dated the 7th September, 1985, publishing the Indian Electricity (Amendment Rules, 1985. along with Statements showing the reasons for the Amendments.

[Placed in Library. *See* No. LT—1489/85 for (i) and (ii).]

REGISTRATION BY MEMBER

MR. CHAIRMAN: I have to inform Members that I have received a letter from Miss Kumudben M. Joshi, a Member representing the State of Gujarat, resigning her seat in the Rajya Sabha. I have accepted her resignation with effect from today, the 25th November, 1985.

Now, we will take up Calling Attention. Mr. Aladi Aruna.

CALLING ATTENTION TO A MATTER OF URGENT PUBLIC IMPORTANCE

Delay in assenting to Bills passed by State Legislatures and reserved by Governors for the consideration of the President

SHRI ALADI ARUNA alias V. ARUNACHALAM (Tamil Nadu): Sir, I beg to call the attention of the Minister of Home Affairs to the delay in assenting to Bills passed by State Legislatures and reserved by Governors for the consideration of the President.

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN): Sir, in accordance with the provisions of the constitution certain Bills. (*Interruptions*)

MR. CHAIRMAN: Hon. Members who want to speak, they can go to the lobby and speak.

SHRI S. B. CHAVAN: ... passed by the House(s) of the State Legislatures are reserved by the Governers for the consideration of the President. Article 200 empowers the Governor to take any of the following steps when a State Bill is presented to him after it has been passed by the House((s) of the State Legislatures—

(i) He may declare his assent to the Bill;

(ii) He may declare that he withholds his assent to the Bill;

(iii) He may return the Bill for reconsideration to the House(s) of the Legislature with a message; or

(iv) He may reserve the Bill for the consideration of the President.

The Bills received from the Govenors are considered by the President under Article 201 which stipulates that when a Bill is reserved by a Governor for the consideration of the President, the President will either give his assent to the Bill or that he withholds his assent there from. The President may also return the Bill to the Governor with a message. After the President assent is given the Bill becomes an Act of the State concerned. No further assent of the Governor is necesary for such a Bill.

Bills referred by the Governor for the consideration of the President are examined by the Government of India from various angles under the provisions of the Constitution. The provisions of the Bills are scrutinised in the concerned Ministeries/Departments of the Government of India and every effort is made to clear the Bill as expeditiously as possible. From 1977 to 1984, 1048 Bills were received and 1014 Bills were cleared. Of the Bills cleared, in 31 cases the assent of the President was withheld and in 3 cases, the Bills were returned with the message of the President. Only 34 Bills pertaining to the years 1977 to 1984 remain pending as is evident from the following figures:—

Year	No. of Bills received	No. of Bills cleared	Still pending
1977	104	103	1
1978	143	143	—
1979	157	156	1
1980	108	107	1
1981	165	160	5
1982	129	126	3
1983	122	113	9
1984	120	108	14

During 1965 upto 22nd November, 1985, 82 new Bills have been received for the consideration of the President and 61 have been cleared so far, including 2 Bills returned with message from the President. The Presidential assent has not been withheld from any State Bill received in 1985 so far.

As on 22-11-85, a total of 55 Bills from various States were pending for the assent of the President. Statewise list is attached. Of the pending Bills, 20 Bills are those which have been received during the last six months.

There is no denying the fact that at times some delay occurs in according the Presidential assent to some States' Bills but such cases are not very many. Where the provisions of the State Bills are either vague or appear to be in conflict with provisions of the Constitution or are not in conformity with the national policy framed by the Central Government it becomes necessary to enter into correspondence or dialogue with the State Government and time is taken before the position is finally clarified or settled.

In cases where the Bill do not have controversial provisions these are cleared immediately.

State-wise list of pending Bills

	1977	1979	1980	1981	1982	1983	1984	1985	Total
Andhra Pradesh	..	..	..	..	..	..	1	3	4
Assam	..	..	..	..	..	..	1	3	4
Bihar	..	..	..	..	2	2	1	..	5
Gujarat	..	..	..	..	..	..	1	..	1
Haryana	..	..	..	..	..	..	..	..	..
Himachal Pradesh	..	..	..	..	..	1	..	..	1
Jammu and Kashmir	..	..	..	..	..	..	..	..	..
Karnataka	..	..	..	..	1	1	3	..	5
Kerala	1	..	..	..	..	..	..	1	2
Madhya Pradesh	..	..	..	..	..	..	..	..	1
Maharashtra	..	1	..	..	..	..	2	1	4
Manipur	..	..	..	..	..	..	..	1	1
Meghalaya	..	..	1	..	..	..	..	1	2
Nagaland	..	..	..	..	..	..	..	..	..
Orissa	..	..	..	..	..	..	..	..	1
Punjab	..	..	..	..	..	..	..	..	1
Rajasthan	..	..	..	..	..	..	1	..	1
Sikkim	..	..	..	..	..	..	..	..	..
Tilam Nadu	..	..	..	2	..	3	2	3	10
Tripura	..	..	..	..	..	1	..	2	3
West Bengal	..	..	..	3	..	1	2	6	12
	1	1	1	5	3	9	14	21	55

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: Mr. Chairman, Sir, the abnormal delay in declaring the assent to the Bills, reserved by the Governor for the consideration of the President has caused a serious impediment in our Federal system. It is not a routine matter of administration. It is a crucial problem of muzzling the rights of the States and injuring the Federal Structure of the country. The number of Bills reserved, as is mentioned by our Hon'ble Minister, by the Governor of the respective States, for the consideration of the President has revealed that not only how the legislative functions of the States have been paralysed but also how the progressive measures based on socialist tenets have been obstructed by the Centre, Sir, the Minister, in his statement has mentioned that nearly 55 Bills are pending with the Centre. It is painful to state that the Kerala Casual Temporary and Beedi Workers Bill is pending from 1977 Similarly, the Bombay Metropolitan Regional Development Authority Amendment Bill is pending from 1977. Among these Bills, twelve Bills belong to West Bengal and ten Bills belong to Tamil Nadu. The rest belong to other States. The States other than Haryana, Punjab, Uttar Pradesh, Madhya Pradesh and Orissa have to stand at the threshold of the Centre for getting assent to their Bills. If we examine the nature of the Bills, we see that 8 Bills are concerned with the progressive measures of the Land Reforms and nearly 7 Bills are concerned with the Minimum Wage of the workers and rest with the University Development, Tax Proposals etc.

Sir, this august House is aware of the fact that these Bills have been duly passed by the respective State Legislatures. There is no constitutional violation or by-pass in passing these Bills. There is a strict adherence to the principle of the Constitution. Despite these things, Centre is keeping more than 55 Bills with it. As far as Tamil Nadu is concerned, ten Bills are pending with the Centre. Among these ten Bills, two Bills are pending from the year 1981. There is no controversy about these ten Bills. There is no agitation against these Bills. There is no constitutional violation in these Bills. Most of the Bills were passed unanimously by both the Houses of State Legislature. Sir, for example, Tamil Nadu Patta Pass Book Bill 1983, which deals with the streamlining of tille of land holders so as to eliminate a benami transactions by the Feudals in our State, was passed with a great enthusiasm and hope, that is pending with you. Despite a non-controversial position, strict adherence to the Directive Principles of our Constitution, if the Centre keeps the Bills in cold storage, it means, it is acting against the interest of the people and applying the reverse gear against the progress of the country. If there is violation of the Constitution or any contradiction. The court is the competent authority to decide and not the Law Ministry at the Centre because court is the only eminent body. At State level, the Bill is drafted by the Law Department; then it is placed in the Cabinet and then it is passed by the Legislature There is no need of repeating the same function at the Central level like placing it before the Law Ministry and the Cabinet; there is no need of such repetition. Therefore, the validity of the Law can be decided by the courts and not by the Centre.

It you go through the reason given by the hon. Minister not only in the statement but also in answer to a quesitoin earlier—it is ridiculous to read—everywhere they have mentioned the reason as examination of the Bill in consultation with the administrtaive Ministry concerned. Perhaps the Covernment may be complacent with this answer, but I have to put it on record that neither does it satisfy the State nor the public. It is obvious that most of the Bills are rserved by the Governors for the consideration of the President, not because of their so-called controversial nature or so-called violation of the Constitution or contradiction but

[Shri Alad iAruna alias V. Arunachalam]

because of vested interests and because of the partisan attitude of the Centre.

Sir, this House will agree with me—there cannot be any difference of opinion—on how the discretionary power of the Governor regarding reservation of a Bill is abused for the satisfaction of the party in power at the Centre. Merits of the Bill and needs of the people are not taken into account. Assent is given or withheld mostly on partisan lines. So, the burning issue before this august House is whether we allow this position to continue even after such bitter experience, whether we are allowing ourselves to be a party for muzzling the rights of the States, whether we

[**The Deputy Chairman** in the Chair]

prefer to keep quiet when progressive measures are obstructed by reactionary forces with the help of the Centre. We have to see how to get rid of this instrument, how to get rid of these difficulties, how to remove the obstructive methods followed by reactionary forces and how to protect the States against the suspensive veto of the party in power at the Centre.

Unless and until the Constitution is amended so as to ensure assent to a Bill passed by a State Assembly, effective functioning of the State Legislature will always be at the mercy of the Centre. The constitutional power of the President and the Governor in declaring assent to a Bill passed either by Parliament or a State Legislature is a matter for reconsideration in the changed situation. No Bill becomes an Act without the assent of the President or the Governor as the case may be. Giving assent to a Bill is obligatory in our constitutional system. Even to a Constitution amendment Bill assent is necessary. But in the USA such assent is not necessary for a Constitution amendment Bill if the Bill is passed by both the Houses with two-thirds of the members present and voting. In England assent to a Bill is a matter of course. Even though the Crown possesses the prerogative of absolute veto, since 1707, that is, since the time of Queen Anne, no Bill has been vetoed by the Crown. Our constitutional position, unfortunately, is based on varied, unwanted principles.

Article 111 deals with power of the President to declare his assent to a Bill passed by Parliament whereas article 201 deals with power of the President to declare his assent to a Bill reserved by a Governor for the consideration of the President. As far as Parliamentary Bills are concened, power of the President has been duly defined and demarcated but the major defect in our system is the abence of a time limit for declaring assent to a Bill. In view of the absence of a time limit for declaration of assent to Bills passed by State Legislatures the Central Governmnet uses its power to veto by simply keeping a Bill on the table for years together in the name of examining it. In the United States, the Constitution is very specific regarding the time-limit. The President must either assent to the Bill or return the Bill with his message or objection. If he keeps the Bill indefinitely for more than 10 days, excluding Sunday, the Bill is deemed to have been assented to.

In Ireland, the President must sign the Bill not earlier than five days and not later than seven days. So the maximum time is only seven days. If the Parliament decides and desires that the President must sign the Bill on the day on which it is submitted to the President in Ireland, it has to be done. In Japan there is no veto power against the Legislature because the Diet, that is Parliament, is the righest organ of State power. It is the sole law-making body. So the question of negation of assent does not arise as far as Japan is concerned.

Even under the Burmese Constitution, the President must declare assent to every law enacted by Parliament. I am citing all these things only to stress that the requirement of a time-limit and the supremacy of the

State legislature within its sphere, have been accepted in most of the democratic countries in the West and the East. Madam, I would like to know what is the difficulty for this Government to accept the requirement of a time-limit in declaring assent to Bills passed either by Parliament or by a State legislature.

Under article 200, the Governor has the right to reserve any Bill to the President for his consideration. In this aspect, the power of the Governor is quite discretionary, even arbitrary. According to this article, the Governor can paralyse the legislative functions of a State if he aims at doing so. So, as far as the wording of article 200 is concerned, it is highly undemocratic and anti-federal. In the United States, no State Bill is reserved for the consideration of the President. The State Bills are sent only to the Governors of the respective States.

In the Constitution of Australia also, there is no provision for the Governor to reserve a Bill for the consideration of the Governor-General. Madam, even though the principle which we follow is adopted in Canada, they have developed a healthy convention, that is, for the last 60 years, the Governor-General of Canada has not exercised his veto power. To that extent, they have developed a healthy convention. In assigning powers to the President regarding declaration of assent to a Bill, the founding fathers of our Constitution have unfortunately failed to follow a just and fair principle. They have tilted towards the Centre. It is portently, even patently reflected in articles 111 and 201. Under article 111, if the Bill passed by Parliament is again presented to the President, the President has no option; he has to declare his assent. Unfortunately there is no such obligation upon the President in regard to Bills under article 201, only because the former is passed by Parliament and the latter is passed by a State legislature. (*Time bell rings*) Madam, five minutes more. So there is a discriminatory attitude in the Constitution itself. It is highly discriminatory, unfair, unjust and unwarranted. Fortunately in our political system, our President has no power directly to disallow any Bills which are not reserved by the Governor for his consideration. It is most interesting to note that nearly 55 Bills are pending with the Centre, but, Madam, not a single Bill passed by Parliament is pending with the President. What is the reason for this paradox? More than 55 Bills are pending with the President. Not a single Bill passed by Parliament is pending with the President. Does the Minister mean that the Law Ministry at the Centre alone is competent enough to frame laws or that the State Government is misusing the powers in framing laws or is acting in an irresponsible manner in making a law? The rasping fact is that the constitutional provision is totally misused by the party at the Centre and is adopting a colonial method of controlling the States. The legislature is considered as a voice of the people, the will of the people. And if you allow one more agency to have the final say in the process of law-making, it means we create a third chamber which is not authorised by the Constitution. Therefore assent to a Bill must be a matter of course and cannot be a matter of constitutional obligation, because in a parliamentary democracy we have a President at the national level and a Governor at the State level both of whom are considered only nominal heads, they are bound by the decision of the legislature which is supreme in our political system. In such a situation, if the Constitution is silent on the requirement of a time-limit, it is the responsibility of this Government to have developed healthy conventions. Unfortunately we have neither nursed nor developed any healthy conventions nor have we followed any principle. Instead, the arbitrary method of taking decisions has become the ardent policy of this Gov-

[Shri Aladi Arun *alias* V. Arunachalam]

ernment. Before I conclude, I would like this Government to assure the House that it would declare assent to all the pending Bills within a specified period; secondly, to protect the rights of the States against abuse of power in giving assent to Bills passed by the various State legislatures, will the Government propose suitable amendment to our Constitution so as to fix a time-limit within which assent must be given to a Bill presented to the President or the Governor? If it is not possible to bring such an amendment, I would request the Minister to tell us what remedial measures are available with the Government to overcome the difficulty of such delay in granting assent to a Bill.

SHRI M. S. GURUPADASWAMY (Karnataka): Madam Deputy Chairman, this debate has not come too late in the day for discussion. This is a very important issue which refers to the powers, the functions, the authority, the jurisdiction of the State Governments and the State Legislature *vis-a-vis* the Centre I think this is the first time since the passing of the Constitution that we have been discussing this specific issue. And I am happy about it. It will at least for a short duration, be able to focus attention of this House on this very important matter. On the face of it the Calling-Attention appears to be very innocuous. But, if you consider it in depth, you will realise the importance, the import, the significance and the seriousness of this issue. The practice of withholding assent to the Bills passed by the State Legislatures by the Government and by the executive authority at Delhi in the name of the President has given enormous powers which was not contemplated even by the Constitution. There has been a calculated move, a deliberate move, a systematic move, made by the Governors at the behest of the Centre or by the Centre on its own volition to stifle, to abridge and disturb the sanctity and power of the State Legislatures. If you go through the Constitution, you will realise that the Governor has got powers to refer Bills in his discretion to the President for his consideration, in other words, for the consideration of the Executive at Delhi if he feels that such Bills affect the Constitution or the constitutional powers or they touch upon the jurisdiction and the powers of the Judiciary; not otherwise. My friend, Mr. Chavan, in the last para of his statement, has revealed his state of mind, the state of mind of his Government. He has said in para 6 of his statement like this, and I quote:

> "Where the provisions of the State Bills are either vague or appear to be in conflict with the provisions of the Constituion or are not in conformity with the national policy framed by the Central Government, it becomes necessary to enter into correspondence or dialogue with the State Government and time is taken before the position is finally clarified or settled."

The Constitution has not given the authority and the power to the Centre to deviate. I am not questioning the powers conferred by the Constitution on the President to use his discretion or his nominee, his agent, the Governor there. But who gives the power to the Central Government to judge whether the Bills passed by the State Legislatures are in conformity with the national policy or not? The Constitution does not contemplate that. Does my honourable friend, the Home Minister, think that the State Legislatures run counter to the national interests? Does he think that they run counter to the authority and power given by the Constitution to the Centre? Certainly not. Otherwise, Madam, the founding fathers of the Constitution would have thought it fit to highlight this fact in the constitution itself. It was

not done because wisely they thought that the State Legislatures are equally responsible, as responsible as Parliament, where the national interests are involved, where national policies are involved. National policies are formulated in separate forums and they are there for all to see.

In the name of national policy and national interest, and even in the name of the State Bills affecting the jurisdiction, the powers of the judiciary.... (*Interruptions*)

Madam, I cannot speak. Will you kindly ask them to be silent?

THE MINISTER OF STATE IN THE PARLIAMENTARY AFFAIRS (SHRI SITARAM KESRI): I am hearing you.

SHRI M. S. GURUPADASWAMY: You are not hearing me. You are engaged in mutual discussion.

SHRI SITARAM KESRI: I was referring to you.

SHRI M. S. GURUPADASWAMY: Anyway, Madam, I am only saying that the Constitution has been very specific in this regard, and the Executive, the Law Ministry, the Home Ministry and other Ministries here have taken undue advantage of the provisions of the Constitution. This is one part.

My colleague here referred to the time factor. Madam, there have been Bills which are pending before this Government, that is, before the President, since 1977, 1979, 1980 and 1981. My friend, the hon. Home Minister, has tried to dilute the seriousness of the problem by resorting to statistics by saying that out of one thousand and odd Bills they have cleared so many. That is not important. The question is: why these Bills have been kept pending since 1977, 1979, 1980 and 1981. The Kerala Casual, Temporary and *Beedi* workers' Wages Bill, 1977, it is pending since 1977. The Bombay Metropolitan Regional Development Authority (Amendment) Bill, has been pending since 1979.

There have been Bills pending since 1980 and 1981. There are nearly nine Bills of Karnataka which are pending. I do not want to go into the entire list of Bills. I think other friends will deal with these various Bills, the importance of these Bills. My point is that there has been abnormal delay in giving assent. That is why I support the contention that there has got to be an amendemnt of the Constitution prescribing a time limit. I do not want to say at this juncture that Bills passed by the State Legislatures should be deemed as passed finally if not assented to in time... (*Time bell rings*) But I would only say that there has got to be a time-limit fixed for the President, for the Governor, to give assent or withdraw assent to a Bill. When the assent is withdrawn, the reasons have got to be stated clearly, and those reasons have got to be debated in the Legislatures, whether the discretionary powers of the Governor have been exercised properly or not. We are today faced with a discretionary dictatorship, discretionary tyranny of the Governor. He is using his discretion racklessly to circumvent, to sabotage, the legislation passed by the State Legislature. (*Time bell rings*) Therefore, Madam, there has got to be a time-limit set.

THE DEPUTY CHAIRMAN: There has to be a time-limit on speeches also.

SHRI M. S. GURUPADASWAMY: All the reasons which weigh with the Governor or the President for withholding the assent should be given so that this may become a matter for debate and discussion. It is important. lastly, Madam, I would like the Home Minister to consider why different procedures have been contemplated in the Constitution for giving assent to the State Bills and for giving assent to the Central Bills. This is in the Constitution. We cannot debate that here. But it is important why different sets of procedures

[Shri M. S. Gurupadaswamy]

have been contemplated. I take it that the 1935 Government of India Act has been incorporated here. Since this authority has been misused by the Central Government, I would like to say that the constitutional provisions dealing with the assent or the withdrawal of assent to the Bills has got to be reconsidered and suitable measures and amendments have to be brought before this House so that the sovereignty and paramountcy of the powers of the State Legislatures and the jurisdiction of the State Governments are safeguarded and protected Thank you, Madam.

THE DEPUTY CHAIRMAN: While we are discussing the time-limit on the Bills, we will have to put a time-limit on the speeches.

SHRI V. GOPALSAMY (Tamil Nadu): If you want me to speak, I will speak. Whenever I rise, immediately you apply the guillotine and I lose the mood to speak. It happends everyday. It happened last time also when I took only five minutes (*Interruptions*)

THE DEPUTY CHAIRMAN: I guillotine him with a smile.

(*Interruptions*).

SHRI V. GOPALSAMY: You are a smiling guillotine. Our Constitution is more or less a carbon copy of the 1935 British India Act. Despite the justification given by Ivor Jennings that the sovereign has got the prerogative to veto any Bill, as my hon, friend pointed out, in the United Kingdom the sovereign refused to give assent only on one occassion in 1707 when Queen Anne refused to give her assent to the Scottish Militia Bill. After that this prerogative was never utilised. Because of its long disuse of over 200 years, Prof. Lasky says that this prerogative of the sovereign has become obsolete. We follow the British Constitution in most of its aspects. But this is the only Constitution which is neither federal nor unitary, neither written nor unwritten, neither rigid nor flexible. Nowhere in any Constitution, either of the United States or France or Ireland or Canada, this power of the Governor finds a place.

AN HON. MEMBER: In the Constitution of Canada.

SHRI V. GOPALSAMY: Yes, in the Constitution of Canada. I quote Mr A. P. Jain:

> "The Governor— I was also one of them—is an appointee of the President, and I have not known of any constitution or any democratic parliamentary practice where the elected representatives of the people are to be subordinated to the will or the discretion of the Governor."

That is why, in 1957, when the Kerala Education Bill was passed by the Kerala Assembly by the first non-Congress Government, Mr. Ramakrishna Rao was the Governor of the State and he withheld his assent to the Kerala Education Bill passed on September 2, 1957 by the State Legislature. Later, he referred the Bill for the consideration of the President. The whole world knows what happened afterwards. Then there was the interesting episode which took place in Assam. I may tell for the consumption of the House that the Assamese Language Bill, a controversial Bill, was passed by the Assam Legislative Assembly. It was opposed lock, stock and barrel by the Bengalis, tribals and the opposition. Shri Vishnu Sahay who was then the Governor of Assam, knew the agitation taking place in the State. Even then he did not withhold is assent. He stated: "I have no choice but to give assent." He gave assent. But in most of the cases when the State Governments do not toe the line of the Central Government, the Central Government has got the power to trample upon the rights of the States. So, I am not going to request the Government that there should not be any delay in giving assent to the Bill. My point is that it is high time to

review the provisions of the Constitution Article 201 should be scrapped from the Constitution. Whenever a Bill is passed by a State Legislative Assembly, the Governor has got 3 or rather 4 choices. He may give his assent to the Bill or he may withhold his assent. Up to what time? Is there any definite time-limit? No. He can withhold his assent. He can simply put the Bill into cold storage for any length of time. So, there is no time limit. He may return the Bill for reconsideration of the House. Is there any time-limit in the Constitution? No. He may return or he may not return. He may give assent or he may not give assent. In his statement, the hon. Minister has stated that the President may also return the Bill to the Government with a message. If it is sent by the Governor to the President, it is returned by the President to the Governor wih a message. That point was made by my hon. friend. There exists a serious anomaly between Articles 111 and 201, if the Parliament passes the same Bill with or without amendments, the President has nothing to say. He has simply to give his assent. If it is sent to the President by the Governor, the President is not compelled to give his assent. He may not give his assent. This is a serious anomaly. Madam, Deputy Chairman, in the Constitution there is no provision that the Governor should give reasons why he is returning the Bill for reconsideration of the House. He need not state any reasons. Without giving any reasons, he may simply return the Bill or withhold his assent to the Bill. That is why, many Bills are pending. From Tamil Nadu, a total of 10 Bills are pending. There are 12 Bills pending from West Bengal. Both are non-Congress(I) Governments. Of course, the number in West Bengal is higher because they are more opposed to the Centre. (*Time bell rings*) Madam, when the Constitution was framed, these questions were raised in the Constituent Assembly. At that time, serious misgivings were expressed by some of the founding fathers of the Constitution. I quote Dr. Ambedkar who stated:

> "The basic principle of federalism is that the legislative and executive authority is partitioned between the Centre and the States, not by any law to be made by the Centre but by the Constitution itself."

> "This is what the Constitution does. The States, in our Constitution, are in no way dependent upon the Centre for their legislative authority. The Centre and the States are co-equal in this matter."

But what was assured by Dr. Ambedkar is not happening. But the intention of the Central Government, of the Union Government, was clearly expressed by Mr. Mahavir Tyagi, in the same debate. He said:

> "The Governor is the agent or rather he is the agency which will press for and guard the Central policy."

THE DEPUTY CHAIRMAN: Mr. Gopalsamy, please conclude.

SHRI V. GOPALSAMY: Madam, kindly bear with me for a couple of minutes.

THE DEPUTY CHAIRMAN: I cannot. This is not a short-duration discussion. This is a Calling Attention. You might put your questions.

SHRI V. GOPALSAMY: I will take only two minutes. Shri A. D. Mani said:

> "...the Governorship became a wastepaper basket for political rejects."

I would like to quote here what Shri Bisvanath Das said in the Constituent Assembly. The question is, who are these Governors to decide the legislations of the States, when the

[Shri V. Gopalsamy]

elected representatives, when the Chief Ministers, when the Ministers are there who are elected by the people of the State? Who is he to withhold his assent? This is nothing but the Centre bulldozing the rights of the States.

Therefore, Madam, I would request the hon. Home Minister that it is hightime to review the Constitution itself because the rights of the Governors, the role of the Governors, has destroyed the concept of federalism in our country, cutting at the very root of federalism in most of the cases. That is why, Mr. Kripalani has correctly stated:

> "....it has been but natural for the Swaraj Governors' to regard themselves as the agents of the Centre rather than heads of the consituent units of the Indian Union, and look to New Delhi for 'aid and advice' as and when confronted with a crisis, or to equate the interests of the State or the country with those of Congress Party."

Madam Deputy Chairman, the States have become dole-getting municipalities as far as our Constitution is concerned. The States have to be at the mercy of the Governors who are appointed by the Centre. That is why, most of the Bills are withhold by the Governors and sometimes by the President. Therefore, I would request the hon. Minister to consider my suggestion of reviewing the Consitution and scrapping this obnoxious provisions of articles 200 and 201 so that the concept of federalism could be preserved and protected.

SHRI JASWANT SINGH (Rajasthan): Madam Deputy Chairman, I do not wish to be repeating those aspects of this extremely important matter which other Members have already referred to. There has been a reference made repeatedly, by all the previous speakers, to the question of the quantum of Bills which are pending and also to the question of the dates from which they are pending. Unfortunately, there is not sufficient time to go into the qualitative aspect of the kinds of Bills which are pending. Some of the legislations which are pending assent are legislations which are essentially of the welfare kind, which relate to the welfare of the weaker sections of India. The most distressing aspect of this delay is the delay of Bills which are meant for the benefit of the larger numbers of Indians. This is an aspect which has not been covered and, therefore, Madam, I would like to say that had there been time, we would have examined at great length the qualitative aspect of the Bills which are pending assent. Numbers have been spoken of already. The dates from which these are pending have also been referred to. The grounds which are given for delay in the Government's own wording are: 'general policy issues, legal and Constitutional grounds.' I shall come a little later to examining this vague pharaseology which tantamounts to granting a licence and, in fact, it amounts to granting a licence of executive veto over legislatures. It is an encroachment on the rights of States. it is a negation and nullification of the people's will. These are the points which previous speakers have also made, but because these points have some substance they bear not mere repetition but underlining.

There are, very briefly, some consitutional aspects of this matter. This results not merely in the malfucntioning of the Concurrent list, but also in a malfunctioning of the total system whereby power within the Union is divided between, what is for convenience called 'Centre' and what are again for convenience called 'States'. We need to recognise Madam., that when we talk of a Centre. We are not talking of a centre of authority, we are not talking of centra repository of all that is good in the land, we are talking of an adminstratively convenient Centre, a phraseo-

logy which enables us to administratively govern a union of States ofover 750 million people. The word 'Centre' when, therefore, it is used as denotive of all central good is highly misleading and perhaps lies at the heart of what goes wrong in this finely balanced instrument of checks and balances, divisions between the federal Government and the Governments in the States. The federal government has on elected body. It speaks through the two Houses of Parliament. Equally, the States have their elected bodies. Therefore, the mere convenience of the use of the word 'Centre' should not mislead us into thinking that it is also the central repository of all wisdom and of all that is good.

Madam, this kind of delay in assenting to legislations passed by the State legislatures is also inhibitory of the States' functioning of their own, even in the spheres for which the role of the federal government is minimal. And this is largely so because this kind of functioning, that we are now constitutionally obiliged of observe,results in the assention of the nominated over the elected. The executive becomes the arbitrator. The Centre thereafter becomes the referee, a kind of an umpire. Amongst the grounds of delay given by the Government are general policy issues. We know the reality of the country today. We know what a chequered political diversity it is representing. There are States of the Union which are governed by diverse political philosophies. They are motivated by their political philosophies to bring about legislation to their, States as a result of their own thinking and persuasion. Thereafter to deny assent. to delay assent to the voice of those, legislatures merely because it is not entirely harmonious with the political philosophy or thinking of the federal government is not the purpose of the Constitution, is not the intent of the Constitution, is certainly not the principle behind the Constitution I shall not labour on that point too much.

We are really talking about Articles 111 and 200. I am not by vocation or training or even by persuasion a lawyer. There are constitutional luminaries and legal minds who are sitting here. Certainly, the hon. Home Minister has at his disposal very adequate, if not luminous, at least legal advice when he comes to enlighten us on such matters. But I think the most crucial aspect in all this is the aspect of the role of Governors. Both Articles 111 and 200 and the grounds are briefly given in the hon. Minister's statement itself—speak of the procedure to be followed for denial of assent, for withholding assent and what should thereafter happen. There is a separate procedure for the Parliament. The President of the Union is an elected Head, even though indirectly. The Governors of States are not elected Governors. The President of the Union, through the agency of this Constitution, should such an unfortunate situation arise, can be impeached. The Governors are answerable to nobody. The Governors cannot be impeached by the State legislatures. The role and functioning and conduct of Governors, it is extremely difficult even for the two Houses of Parliament to question. The Governors are nominated by the excutive power in accordance with the passing political fancies or whims—quite often retired politicians put out to pasture are appointed. Those Governors are not free from political bias, cannot indeed be expected to be free from political bias because by their very origin they are political.

THE MINISTER OF ENERGY (SHRI VASANT SATHE): I believe this will include that period also—1977 to 1980.

SHRI JASWANT SINGH: Absolutely: I am not excluding any period. Absolutely, it is inclusive of the period of 1977—80. We did likewise. We are also not free from this. Because the hon. Minister has found it necessary to inervene, I would like to seek your indulgence to clarify that in

[Shri Jaswant Singh]

such things I do not say that we are the sole repository of moral good. We are not the sole repository of moral good. Likewise the Treasury Benches are also not the sole repository of moral good.

SHRI RAOOF VALIULLAH (Gujarat): There were some such people from your side also.

SHRI JASWANT SINGH. I speak for myself. When I stand in this House I do not claim to be, I cannot make an assertion that we who are here in the Opposition or you there in the Treasury are the sole repository of all that is good. We are indians jus as you and I are.

एक ही थैली के चट्टे बट्टे हैं । जो आपकी कमियां, कमजोरियां हैं वही मेरी भी कमियां और कमजोरियां हैं । अगर गवर्नर्स गलत तरीके से 77 और 80 के बीच में एपांइट हुए जैसा कि मैं मानता हूं, अपांइट हुए तो आज अगर गवर्नर्स उसी तरीके से गलत तरीके से एपाइंट होते हैं तो आपको मेरी बात माननी पड़ेगी कि जो गलतियां 77 और 80 के दौरान गवर्नर्स के एपाइंट करने मे हुई वे ही गलतियां आज दोहराई जा रही हैं ।

That is there. That is the methodology that we adopt for appointing Governors, Madam. Having adopted that methodology, when we place those Governors as arbiters, as referees, as umpires to decide whether to grant assent, to withhold assent, or to deny assent or to refer a matter to the President, this is a deeply disturbing anomaly in the whole functioning of our Constitution. And if we were to perpetuate it, currently we have 55 pending legislations, we might well end up in a situation wherein that number may not be denoting the whole dimension of what is acutely wrong with the practice of our federal system. I would, therefore, conclude with one or two questions and suggestions. Precisely because the nature of today's debate is such what I refer to as suggestions are also questions and my questions will have inherent in them a suggestive element.

I would request the hon. Home Minister to consider a constitutionally mandatory period. You decide what is convenient, what is constitutionally a convenient period—whether it be three months or four months. But don't make a mockery of the period that you constitutionally permit, but give a constitutionally mandatory period within which an assent or denial of assent, or withholding of assent must finally be disposed of I would recommend three amendments.

1 P.M.

Secondly like in Article 111, please carry out suitable amendments in Articles 200 and 201 so that if the Legislature, after the Governor has withheld or denied assent, thereafter the State Legislature is obliged to reconsider the Bill a second time. At the present moment it is applicable only to money Bills. Make it applicable to all Bills and if, for the second time also, the State Legislature in its wisdom were to return the Bill to the Governor, thereafter the Governor would be obliged immediately to grant assent. I recommend it for your consideration. Therefore, carry out suitable amendments to Articles 200 and 201 in that respect.

I would, finally, take this opportunity to say that I do think, perhaps this is a fit occasion to suggest to the hon. Home Minister that there is need to consider the whole question of the Concurrent List and its functioning. Why do not please consider this aspect of the Concurrent List and its more efficient and its more democratic functioning?

Thank you very much.

SHRIMATI KANAK MUKHERJEE (West Bengal): Madam, we are discussing toay a very very important matter and it reveals how the Union Government is putting obstacles in the smooth functioning of the State Governments and development of

the States and how it shows disrespect to the federal spirit of the Constitution and the sanctity of the power of the State Legislature also. From the statement of the Minister itself we see that at least 55 Bills from 14 States are still awaiting President's assent and I think this list is rather back-dated. I have got one list from West Bengal and from there 15 Bills are awaiting assent of the President. These 14 States include both Congress (I) ruled and non-Congress (I) ruled States. They are Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh; Karnataka, Kerala, Manipur, Meghalaya, Maharashtra, Rajasthan, Tripura; Tamil Nadu and West Bengal. West Bengal certainly tops the list.

Madam, the functioning of the States is really being obstructed by the bureaucratic red-tape which the Central Government is following. Regarding the Bills of West Bengal I see that three Bills are awaiting assent since 1981 and three others since 1984. What are these Bills? The first Bill is the Land Acquisition (Amendment) Bill, 1981 and the second is the Land Reform (Amendment) Bill, 1981. These are the most important Bills awaiting assent from the President since 1981. The first Bill seeks to give compensation to the sharecroppers in the event of the land cultivated by them being acquired. This is a corollary to the West Bengal Land Reforms Act wherein hereditary rights have been given to the sharecroppers. This is for the protection of the interests of the poorer sections of the population and this Bill has been kept in the cold storage and is awaiting assent of the president.

Do you realize what harm you are doing to the States and the poorer sections of the population? The second Bill, the most important one—the Land Reform (Amendment) Bill, 1981—is intended to plug certain loopholes which enable land owners to retain more land than what is prescribed under land ceiling. If we take the record of rights since 1966, now lakhs of acres of land could have been available for distribution among the poorer sections of the landless agriculturists—if only this Amendment Bill could get assent in due time. You know that the landowners take advantage of the loopholes of the Bills, and they flout the ceiling cleverly by fraudulent means by changing the classification of the land and also by making benami transactions. For example, the ceiling on land was flouted by declaring agricultural land as land for fisheries. orchards, waste land, homestead, like that. Similarly, lands were kept not only in the names of their relatives but in the names of the cattle also, in the names of cow, cat, dog and in the names of fictitious persons also. We want to remove these loopholes. And if this Bill could get assent from the President, lakhs of acres of land could have been distributed to the landless agriculturists. This is the second Bill.

Then the third and the fourth ones are very important—the Trade Union (West Bengal Amendment) Bill, 1983 and the West Bengal Mazdoor, Tindal Loader, Godownman and other workers (Regulation of Employment and Welfare) Bill, 1981. They are waiting for assent also. What are these Bills for? These are for the interests of the working people. They will inincrease the bargaining power of the working people in the unorganised sector. So, what are the reasons for keeping these Bills waiting? Is it against the national interest? Is it against the Constitution? Why is the Centre withholding its assent to these Bills.

Now I come to the next one, a very very important Bill. The Calcutta University (Amendment) Bill, 1984 is waiting for assent for the last 18 months. But you did not take even 18 hours to issue an ordinance in the case of Bihar and change the Bihar University Act, and there the Governor has all-in-all power and sacks the Vice-Chancellors like domestic servants because it suits your purpose. For the last 18 months

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you are holding assent to the Calcutta University (Amendment) Bill. What is this amendment about? It was enacted by the State to obviate the threats to academic democracy in the University. It refers mainly to two aspects. The first is the appointment of the V. C. and pro-V. C. The second is accountability of the V. C. for his action. Now, at present, in the existing Act, these two issues are left to the wisdom of the Governor acting in his individual capacity. This amendment seeks to impart the Senate, the collective wisdom of the Senate, with the final say. What is the Senate in the Calcutta University? It is a predominently elected body. Out of 170 members, 80 persons are elected. Who are they? They come from professors, readers, lecturers, teachers of affiliated colleges, employees, students, legislators, graduates, Directors of research institutes. They are top intellectuals. They are the Senate members there. We want to empower them, their collective wisdom, for these things which you left to the single individual will of the Governor. If this amendment is passed, it will enlarge the Unversity autonomy and ensure academic democracy of the University. It will set an example. Madam, the Union Government are adopting double standards. What is the purpose behind it? They have one standard in Bihar and another standard in West Bengal. Is it not a partisan attitude of the Government? Is it not politically motivated? You have a biased and partisan attitude, and you show disrespect to the federal Constitution. And you have taken education in the Concurrent List to curtail the powers of the State Governments.

Madam, my next point is that the bureaucratic procedure and red-tapism are not less responsible for this undue delay in giving assent to these Bills. Article 201, as many of our friends have already mentioned, gives power to the President. It reads:

> "When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:"

But the President is helpless. He cannot act independently. He has been given the executive powers by the Constitution. But he can exercise his power only on the aid and advice of the Council of Ministers headed by the Prime Minister. The Bills passed by State Legislatures are sent to the Home Ministry by Governors. (*Time bell rings*) The Home Ministry sends these Bills to the concerned Ministries. They send these to the officials. So this vicious circle goes on for unlimited period. That is the bureaucratic method. I suggest that this process must be simplified. The Government can appoint a Committee to be headed by the Home Minister or they can ascertain any other simplified method. There must be a time-limit as my previous speakers have mentioned.

Now, the Central Government which has decided in giving the licences within a fixed time should pay attention to the will of the people expressed through the State Legislatures. It is against the principle of the democracy and federal Constitution, if the Bills are delayed for unlimited period.

Therefore, I put the following questions to the Minister which he can reply:

(1) What steps the Union Government is taking for immediate Presidential assent to all the State Bills especially the Bills like West Bengal Land Acquisition, Land Reforms, Trade Union, Calcutta University Amendment Bill. etc?

(2) Whether the Government is going to simplify the process of Presidential assent to the State Bills,

if necessary by amending the Constitution itself?

(3) Whether the Government will pay more attention to the will of the people expressed through State Legislatures for development of the State to minimise regional imbalances and to develop national integration?

(4) Whether the Union Government will stop having double standard for Congress (I) and non-Congress (I) ruled States and pay due respect for their democratic principle of the federal Constitution?

(5) Finally, whether the Government will consider the suggestions of all the Members on a definite time-limit for Presidential assent to the State Bills?

Thank you.

SHRI S. W. DHABE (Maharashtra): Madam Deputy Chairman...

THE DEPUTY CHAIRMAN: We would like to finish this Calling Attention before lunch.

SHRI S. W. DHABE: How can we finish? This is an important matter coming up for the first time. You must give more time to this Calling Attention.

Madam, this is a case where the Rajya Sabha is directly interested because this House represents all the States. There is a case wherein blanket use of power is there. There are no conventions built to protect and safeguard the Constitutional rights of the States. I think political consideration is being given more weightage in giving assent to the State Legislatures Bills. In this connection, I would like to point out the provisions of the Constitution under Article 246, sub-clause (3):

"Subject to clauses (1) and (2), the Legislature of any State.. has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

Regarding land reforms and other matters given in the State List, I will come to them later on. In the concurrent list powers have been given to the Central Government as well as to the State Governments. If a State Legislature has been given exclusive power to pass a legislation, the Centre has no business to interfere what the State Legislature has done. This is the directive of the Constitution.

Therefore, Article 200 has been interpreted in such a way that the Governor has got powers to send all the Bills for consideration of the President or he withholds assent therefrom.

If we read Article 246, I think, it is a misuse of power. This article 200 has been interpreted by the Home Ministry and the Law Ministry in such a way that it has got a blanket power, the power to interfere with in every Bill whether for that, the State Legislature has exclusive powers or they have no exclusive powers. I can understand in case of a concurrent Bill that Article 200 gives some powers to send it for consideration of the President but it is not so, as far as the powers under Article 246(3) are concerned; Article 200 seems to give some powers in other matters. I would like to know from the Hon'ble Minister: what is his conception of Article 200 whether it gives blanket power to the Governor to send every Bill for assent to the President in the limited way?

Second aspect of this is that so far as the institution of Governor is concerned, it should have been above the party level and not merely as a nominee or what is called rejected politicians as one expert has said to be sent as Governors if they are not wanted in the State or All India politics. The result had been—it is very gloriously stated in the statement:

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from 1977 to 1984, 1048 Bills were received and 1014 Bills were cleared. What does it show? 1048 Bills were sent by the Governors to the President for assent. That means 150 to 200 Bills every year. The Governor acted merely as a post office. That shows the Governor was acting on the behest of the Central Government and the Ruling Party instead of having any independent examination, in applying his mind to Constitutional provisions. It is a very sorry state of affairs in our country. The institution of Governor has been devalued. The Governor thinks that it is not his responsibility, that he must take the prior consent of the President whether or not he should give his assent on that or not. That means the Law Ministry or the Home Ministry. Otherwise, how does the Home Minister explain the phenomenon that 1048 Bills were sent by the Governor to the President for assent. And how many Bills were cleared. I do not think, more than 200 Bills are passed all over the country every year. You might be knowing more about statistics but even sending 200 Bills to the President every year and 1000 Bills during that period, I submit here. Sir, that the time has come when the Government must come above the party levels and party considerations and restore the glory of the institution of Governor to which an independent and good man should be appointed as was done by Pandit Jawaharlal Nehru. It is no use blaming the Constitution. The real thing is application of the Constitution. I would like to show what are the Bills which are held up. The Hon'ble Home Minister has given a list of Bills which are about 55. He has not given the genesis of the Bills but we have got the genesis of the Bills and I will just come on this point. Only one aspect, I would like to place before the House i.e. Seventh Schedule. Now, the Seventh Schedule of the Constitution—Concurrent List—Items 22, 23 and 24—Trade Unions. industrial and labour disputes, social security and social insurance, employment and unemployment, welfare of labour including conditions of work, provident funds, employer's liability. workmen's compensation, invalidated age pensions and maternity benefits. Now, therefore, in this aspect of the case, does the Government consider that the national policy on labour will be the same in the State and the Centre? The party in power in the State believes that election of the workers representatives should be by ballot and if they think—that the trade unions, industrial disputes act or recognition of union within the industry should be given by ballot, then how can the Government say: it is against the national policy. The very concept of the Constitution is that the States have the responsibility as to how to maintain peace or how to have more production or how to build good industrial relations or how the workers should be benefited. But I am surprised to find that Bills in this regard are pending with the President, whether they are from West Bengal or from Maharashtra. Even my own State of Maharashtra has not been given justice. I will cite some of these Bills. I have got a reply to Unstarred Question No. 1303 on the 31st July 1985, in which it has been stated that the Kerala Casual, Temporary and Badli Workers Wages Bill, 1977, is still pending. This Kerala Bill is about casual and temporary workers. Now why was there a strike in Bombay? You know, for the last 10 years the workers are *badli* workers; there is no permanency, there is no job security. Kerala passed this Bill and still it is not given assent. The Government says that "the Kerala Casual, Temporary and Badli Workers Bill, 1977 was received by the Ministry on 11-10-1977 and it is under examination in consultation with the administrative Ministry/Department". Does the Government want to show that they are not for the poor working class and they do not want any casual or temporary workers to be given any job security?

I would mention about two Bills from

Maharashtra which are under examination. One is the Bombay Metropolitan Regional Authority Bill, 1979. And the other Bill which has not been cleared—I have strong objection to this delay—is the Maharashtra Workmen's Minimum House Rent Allowance Bill, 1983. This Bill provides that house rent allowance should be paid to the workers where the private industry is not paying it. The Government pays house rent allowance but the private industries do not pay house rent allowance to the workers. Therefore, the Maharashtra Legislative Assembly passed a Bill whereby the minimum house rent allowance, whatever is prescribed, Rs. 15 to Rs. 20, should be paid to the workers. What is there to examine? Is it against the Constitution? Is it against the national labour policy? Is it against the labour policy of the Government? Nobody is against it except the vested interests and big business houses of Bombay. The Bill is pending from 1983. The Tamil Nadu Payment of Gratuity Bill is pending from 1983. The Industrial Disputes (Tamil Nadu) Amendment Bill, 1981 is also pending. I fail to undestand this. When the State Government there is cooperating with the Central Government, even then they do not want to give a fair deal to the working class.

In West Bengal the position is still worse. The Land Acquisition Bill, 1981, has not yet been approved, to which a reference has been made. And yet you say that you want to have land ceilings and land reforms. Merely by slogans nothing is going to be done. On 22-11-1983, the Trade Unions Amendment Bill was passed by the West Bengal legislature, and the shops and Establishments Bill also thereafter. Why is the Trade Unions Amendment Bill still not cleared? The matter must be clarified. Otherwise the impression in the country is that if Governments of the Opposition parties want to undertake any welfare measures or radical measures, the Central Government is acting like Sukracharya. I want to understand what is against the national labour policy in this? The Maharashtra Legislative Assembly passed a resolution in 1984 for the establishment of development boards, but the Home Minister is sitting tight over it.

Therefore, my suggestion is that by a judicious exercise of powers, a time-limit can be fixed. It can be fixed even by convention. It is not necessary to amend the Constitution. But this routine method of sending the Bills to the Department and examining them should be changed. A Bill must be cleared within three months. That must be the convention which should be established. I have two questions to ask will the Government assure this House that so far as Bills which are exclusively within the jurisdiction of the State legislature under article 246 are concerned, they will not be sent for assent to the President? Secondly, a convention should be built that within three months the Bills should be cleared or else the State Government should be informed whether the Bill is against the provisions of the Constitution or is against the labour policy or the national policy. Otherwise, this sort of sitting tight over Bills from 1977 and 1981 is really scandalous. I believe the Minister will assure the House that all the pending Bills will be cleared forthwith. They are very important welfare measures. Otherwise, the impression will go round the country that this Constitution has failed us in giving relief to the poor masses. Otherwise, the Centre-State relations will get further strained. Therefore, it is time the Government changed its attitude so that the Constituion is worked properly and in the interests of the people of the country as a whole.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): Madam Deputy Chairman, it is most distressing and agitating the minds of the people of the States that many Bills

[B. Satyanarayan Reddy]

on welfare measures are pending with the Central Government for assent by the President. Some of the Bills were passed by the State legislatures long, long, ago. I need not go into the details of all such Bills. I would however, draw the attention of the Central Government to some of the very important Bills sent up by the Government of Andhra Pradesh. These are the Bills on welfare measures aimed at benefiting the weaker sections and women, in particular. One is the Andhra Pradesh Telangana Area Abolition of Inams (Amendment) Bill 1984, Bill, No. 26 of 1983. This Bill was passed on 29-3-1984 by the Andhra Pradesh Legislative Assembly and adopted by the Council on 7-5-1984. It was forwarded to the Government of India for President's assent on 7-6-1984. But this has not been assented to by the President so far. This Bill concerns abolition of Inam lands benefiting mostly the weaker sections, especially Harijans, the landless, the Kumhars, the dhobis, etc. All these will get the benefit of ownership of the Inam lands. Because of the absence of President's assent to this Bill, most of these weaker sections are not getting loans from the banks because the banks are insisting on production of certificates of ownership of land. Therefore, any delay in assenting to such a Bill means the Government is witholding granting the right of ownership of property to the weaker sections to the Harijans, to the Kumhars to the carpenters. Similarly, another important Bill awaiting President's assent is the Hindu Succession (Andhra Pradesh) (Amendment) Bill 1985, Bill No. 26 of 1985, passed by the State legislature on 24-9-1985, sent to the Governor on 10-10-1985 and forwarded to the Central Government on 15-10-1985. The whole world knows it, all parties want it, giving equal rights to women in the property. The third is the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers Bill 1985, Bill No. 13 of 1985, passed on 13-9-1985 sent to the Governor on 27-9-1985 and onwards to the Central Government on 3-10-1985. These are the three important Bills still pending with the Central Government for assent of the President. Among other Bills which have been referred to the Government of India for prior consultation are: The Andhra Pradesh Andhra Area Status Abolition, Conversion Into Ryotwari (Amendment) Bill, 1985.

Then, Madam, the second Bill is the Andhra Pradesh Land-grabbing (Prohibition) Amendment Bill, 1985; the third Bill is the Bobbili and Sitanagaram (Acquisition of Sugar Undertaking) Bill, 1985; and the fourth Bill is the Andhra Pradesh Forest Produce (Fixation of Ceiling Prices) Bill, 1985. Madam, these are all very important Bills and they are progressive Bills and they are meant for the welfare of the people. But all these Bills are pending clearance by the (Central Government) President.

THE DEPUTY CHAIRMAN: Mr. Reddy, you can continue after lunch. We will have it after lunch at 2-30.

SHRI B. SATYANARAYAN REDDY: All right. I will continue after lunch.

THE DEPUTY CHAIRMAN: The House now stands adjourned for lunch till 2-30 p. m.

The House then adjourned for lunch at thirtyone minutes past one of the Clock.

The House reassembled after lunch at thirty-two minutes past two of the clock, **The Vice-Chairman (Shrimati Kanak Mukherjee)** in the Chair

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Shri Satyanarayan Reddy to continue.

SHRI B. SATYANARAYAN REDDY: Madam Vice-Chairman, I was referring to some of the Bills which are still pending for assent of the President. These are the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Bill, 1984, the Hindu Succession (Andhra Pradesh Amendment) Bill, 1985, the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Gundas, Immoral Traffic Offenders, Land Grabbers Bill, 1985. Then I also referred to a list of Bills referred to the Government of India for prior consultation. Then, lastly, there is the list of Ordinances pending previous instructions of President of India. These are the Registration (Andhra Pradesh Amendment) Ordinance, 1985 and the Andhra Pradesh Disturbed Areas (Suppression of Activities of Terrorists) Ordinance, 1985. The first was referred to the Government of India *vide* letter No. 658/U2/85-4-Rev., dated 21-5-85, and the second one was pending with the Government of India; the reference number is GAD 535/SCA/84-2, dated 22-6-85, G.O.I. Number 14/32/85-Judl., dated 10-9-85 and reply dated 7-10-1985. All these Bills are pending with the Central Government. No action has been taken.

Madam, I would like to draw the attention of the Central Government through this august House to the fact that its Legal Department which is supposed to go into these Bills are not acting quickly. Why it has taken so much of time? If the officials who are responsible to go through these Bills before they are sent to the President for his assent are negligent—if they are not competent, lethargic, lazy, they must go, so that persons who are competent persons who are capable of doing these things in time should take their place. I would also request the Home Minister—he comes from a State very near to our State: he knows the problems of the people—to act quickly if he follows the footsteps of his predecessors, I would humbly request him to resign, so that he does not get a bad name as the previous Home Ministers who have also been responsible for delaying these Bills. Due to delay in assenting to these Bills thousands of people have been put to suffering, weaker sections, artisans, poor people are denied their rights. These people are suffering due to the pendency of these Bills. I would also like to suggest here that the powers which have been given to the Governors under article 200 should be scrapped. As a matter of fact, we believe, there is no need for the post of Governorship at all. We want that the post of Governor should go, this should be abolished.

Secondly, Madam, under article 201, the President is given discretionary power. As my esteemed colleagues have demanded, the Constitution should be amended laying down a time limit during which all these Bills should be cleared.

Thirdly, Madam, under article 246 of the Constitution, the State Legislatures have full powers to pass laws and the Centre should respect the will of the people of the States by honouring the State laws. The State Legislatures have passed these Bills. They are competent to pass laws. Therefore, I see no reasons why the Centre should refuse the assent or delay to assent. The will of the people should be respected. The will of the State Legislatures should be respected. By delaying the matter, the Centre is setting bad traditions and creating ill-will between the Centre and the States. Madam, the whole country is one. We want the country to be strengthened. We want the country to prosper. But the Centre's attitude leads to a suspicion in the minds of the people, in the minds of the States. We have seen the troubles in Punjab, in Assam and in other parts of the country. These are all due to the wrong policies, wrong attitude, adopted by the Central Government. The Central Government should change their attitude. They should respect the will of the States. The rights of the States should not be curtailed.

[Shri B. Satyanarayan Reddy]

In West Bengal, Madam, as you have rightly said, 12 Bills are pending. Likewise, in Karnataka, 10 Bills are pending.

SHRI M. S. GURUPADASWAMY: Eight.

SHRI B. SATYANARAYAN REDDY: Eight Bills are pending. In Tamil Nadu, I think, 10 Bills are pending. In all, 56 Bills are pending, from different States. I would like the Home Minister to change the procedure, their attitude and their way of functioning so that he should prove himself a dynamic Home Minister and not a sleeping Home Minister. He should take early steps to see that all these Bills which have been passed by the different State Legislatures are assented to, are given clearance.

Lastly, I would like the views expressed by hon. Members from different political parties to be taken into consideration and the Constitution be amended, providing a time-limit of three months, so that, in future, any Bill which is beneficial for the country or for the people is not delayed.

Madam, in the end, I would like to put two questions to the hon. Minister. How much time these Bills will take for assent of the President? The Bill which I have referred to, namely, the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Bill, 1984, was passed on 29th March, 1984. This is not a controversial Bill. This is beneficial for the people, for the common man, the artisans, the chamars, inamdars, carpenters; washermen and poor Harijans; guarding the village; all these people will come under this. If this amendment is accepted, if assent is given to this Bill, all these people will be benefited. At present, these people are facing great difficulties in obtaining loans from the banks, nationalised banks. The banks are refusing to give loans to these people saying that they are not the owners, they are only inamdars and that they should bring proof of ownership, proof of title. If this Bill is assented to, all these people will be benefited; they will become owners, they will have the title and they will be able to get loans from the nationalised banks. Second, the Hindus Succession (Andhra Pradesh Amendment) Bill, 1985 concerns the rights of women. Women must be respected and given equal rights. Bill No. 3 is the A. P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug offenders, Gundas, Immoral Traffic offienders; Land Grabbers Bill, 1985. All these Bills have not been cleared. The Minister must assure the House as to how much time it will take to give assent of the President of India to the pending Bills. I have referred to the other Bills also. I want that there should be no further delay and the assent should be given immediately. I hope the Home Minister will act quickly and promptly.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam Vice-Chairman, I only want to say that the policy being pursued by the Central Government is dangerous for the country because it tentamounts to ignoring the wishes and verdict of the elected representatives of the people. Such dilatory tactics on the part of the Central Government does not strengthen the unity of the country. It only aberrates federalism, ignores the people and ultimately helps the divisive and fissiparous tendencies in the country. This was not the intention of the fathers of the Indian Constitution. it is only aberration In my State of West Bengal 15 Bills are pending. This is the largest number of pending Bills. Why is it so? It is because the leftist government is in power in West Bengal. It is the case of political discrimination and political vendetta. The same thing we had witnessed when undivided Communist party was in power in Kerala in 50s when Comrade Namboodripad was the Chief Minister. At that time also

the same dilatory tactics on the part of the Central Government were very much in evidence. So, it is nothing new. It is only a question of political discrimination, political discrimination against opposition in general and mostly so against the leftists in power. Therefore, Madam, I believe that it is leading to erosion of power of the State legislature. States are having very little power and that too is not being allowed to be used. And what is going to be the effect? The spirit of the Constitution, integrity of the country, unity of the nation, all these things are going to be jeopardised by the partisan political trend and activities of the Central Government. I believe the Central Government will no longer allow the power of the legislature to be eroded like this.

Let us take the case of West Bengal again. Of the 15 pending Bills two Bills are very important. The one is about land reform. Let me ask the Home Minister as to why land reform has not been carried out in the Congress States. It is not my complaint. It is the complaint of the Planning Commission. Land reform has been carried out the most in West Bengal, Kerala and Tripura where left movement is strong. Your policy is not being carried out by your State governments, your people, your Ministers. Now, West Bengal wants to bring about a Bill to plug the loopholes. It wants to legislate a Bill to recover benami lands. It wants to bring about a Bill to distribute the surplus land amongst the agricultural poor and you are becoming an obstacle. So, it is only a lip sympathy on your part. You speak of land reform but in fact create obstacles as we see in case of West Bengal

Again, in West Bengal a Bill has been brought about to take over the illegal fisheries that have cropped up. There has been a calamity recently in some parts of West Bengal. It is the illegal fisheries that are responsible for the natural calamities. The situation is so grave that we want this Bill to be cleared not only for the recovery of land but to protect the land of West Bengal from erosion. Let me tell you another thing. In 1968 and 1969 when the United Front Government was in power, lakhs and lakhs of acres of benami land were recovered with the aid and help of the Government and this vacant land that was recovered and vested in the peasants was taken away forcibly when the Congress came to power under the leadership of Shri Siddharth Shankar Ray. Hundreds of illegal cases were pending and we wanted this Bill to be passed so that those lands could be recovered and distributed. Now you have to tell us, it is not a debate on Constitution, nor is it a debate about the legalistic aspect of the powers and prerogatives of the Governor. It is a question of a debate on political philosophy. Tell me whether you are interested in land reforms or not. Tell me whether you want land to be distributed among the poor or not, whether you want to help land distribution to be carried out or you want to create obstacles.

The second point is, if land distribution is not carried out properly who is going to benefit? It is the zamindars who are going to be benefited. Then if I say that the present Government of India is objectively helping the landlords, then what is your counter-argument? Secondly, Madam, there is another Bill on trade unions. We wanted this Bill to be passed to increase the collective bargaining of the working class as against whom? As against the industrialists, as against the black-marketeers, as against the big business. But you do not want the collective bargaining of the working class to increase. Therefore, you have not given your consent. What is the objective

[Shri Gurudas Das Gupta].

result? The objective result is collective bargaining does not increase as capitalists are objectively helped by your action. Therefore, Madam it is not a question of discrimination alone. It is a question of reflection of the political philosophy of the present Government which is in power. They do not want the cause of the peasants to be justified. They do not want the collective bargaining of the working class to be strengthened. That is the political reason why they are creating obstacles especially in the case of West Bengal by not giving consent to the Bill that has been passed.

And, Madam, just a minute more. I shall only sound a note of warning as a citizen of the country, as a Member of this House as a member of a responsible political party. I shall only say: don't ignore the sentiments of the people, don't ignore the judgement of the elected representatives of the people in the States. If you ignore the wishes of the people, if you ignore the judgement of the elected representatives, it will lead not to strengthening the unity of the country, it will lead to the weakening of the country, which, I suppose you do not want, Please understand what the situation is. Why it happened so in Punjab? Why it happened so in Andhra ? Why it happened so in many other States? Because the people have a feeling that it is Delhi which rules people, have a feeling that it is Delhi which ultimately governs the State Assemblies, State Chief Ministers, State Cabinets are only to live under the thumb of the citadel of power now situated in Delhi. Don't give this impression. If you create such an impression, immediately a counter-blast is created. That counter-blast does not help national integration. That counter-blast does not help in India becoming stronger. That counter-blast does not help India become strong, powerful and prosperous. We want India to be united; we want India to be strong; we want divisive forces to be defeated; we want other inimical forces to be routed. But for that it is necessary that you give freedom, it is necessary that you listen to the people with a little sympathy, it is necessary that you give them little credence. It is not by your high handed actions that you can keep India united. Therefore, Madam, my appeal shall be not to the Home Minister, who is present in the House, alone, but to the ruling party, to believe and ponder whether these dilatory tactics, this ignoring of the wishes of the States, whether their activities which erode the functions of the State Legislatures shall in the ultimate analysis help the Indian nation? Thank you.

SHRI N. K. P. SALVE (Maharashtra): Madam Chairperson, I agree with the observations of the hon. Members of the Opposition that this Calling-Attention is an extremely important, one, for it raises an issue—an important issue—in which a serious grievance of the States against the functioning of the Union Government for working article 200 is voiced. The scheme of the Constitution has been assailed and attacked by some of the Members in totality and particularly with reference to articles 200 and 201 a large many suggestions have been made for the amendment of the Constitution. Madam, a Calling-Attention debate is hardly adequate for us to be able to adequately discuss in this House Constitution amendments, specially if they are of far-reaching significance—which are sought to be suggested by the Members. But I entirely agree with the hon. Members of the Opposition that the State has a grievance—and a very serious grievance—that the Bills which are referred by the Governor to the President have been pending for a very long time and there is inordinate delay for which there is no justificati

that extent—and to that extent only—I am entirely with the Opposition and I do hope the Home Minister, when he replies will tell us as to what is the time-period in which all these will be cleared. It is up to you to decide, to look into the matter and ascertain whether the Bills are such which go against the trend of the national policy, which are otherwise pernicious to the national interests, which encourage fissiparous and divisive tendencies and withhold your assent to them. It is up to you, but they must be disposed of. The disposal of the bills cannot be kept off for such a long period. That is one matter on which I must agree with the Opposition Members.

But I totally disagree with the Opposition Members to the extent they say that there is any discrimination based on whether there is any Congress Party Government or non-Congress Party Government in the State. The figures will show that, at least, whatever may have happened, the grievance of the States, when there is a Congress Government, is the same as when there is a non-Congress Government. Look at Bihar. UP to 1984, all throughout there has been a Congress Government, five bills are pending. In Karnataka, in the period when there was Congress Government, three Bills are pending. In my own State of Maharashtra—and that of the hon. Home Minister—one Bill of 1979 and two of 1984 are pending.

SHRI S. W. DHABE: Pertaining to workers.

SHRI N.K.P. SALVE: I am coming to that aspect also. These Bills are such which are meant for the welfare of the employees and workers and relate to land reforms, labour welfare or law and order. It is ever the more necessary that there must not be any delay whatsoever. Take a decision and take it quickly and expeditiously so that you do not give an opportunity unnecessarily to the States to feel, specially where we do not have Congress Government, that there is some discrimination against them.

But let us look at it a little more objectively. The debate has been of a very high level. I would urge hon. Members to see whether or not when we in the Congress Party have Governments in the States, we also have an equally legitimate grievance about what is happening. Therefore, your allegation that there has been partisan attitude, that there has been discriminatory attitude and that there has been vindictive attitude or that there has been political discrimination, is belied by the facts.

SHRI GURUDAS DAS GUPTA: The largest number of Bills are pending in West Bengal. The fact remains.

SHRI N. K. P. SALVE: I have already said, Madam, that if the Bills are so salubrious and, in fact, far from being anti-national and they cater to the national interest and would subserve the national interest, it is ever the more necessary that they must be expeditiously examined. It is up to them then to come to the conclusion, if they are anti-national or they are likely to violate constitutional provision, and then they can withhold assent. But there are very important Bills, Bills which have an extremely important purpose to serve in the national life and polity as it stands today. What is more important is, why should there be delay at all? That is the crucial question of the matter.

SHRI S. W. DHABE (Maharashtra): Justice delayed is justice denied.

SHRI N. K. P. SALVE: I agree, justice delayed is justice denied, specially when there is no warrant for this type of delay. But while it is so, the facts show clearly that the Home Ministry is not partisan, if is

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unfair to us, the Congress Government, as it is to non-Congress Government, and, therefore, to that extent, I am with you, give them that credit that there is no basis for allegation of this sort of discrimination or vendetta or a partisan attitude. But this would not take you to the extent of saying that we should change the scheme of the Constitution for this purpose. See how extremely salubrious and how extremely beneficial has been the working of the provisions of this particular article. I would like to draw the attention of the Members to the Bihar Press Bill. The Bihar Press Bill which was passed during the period the Congress Ministry existed in Bihar, sought to enact a legislation by which scurrilous writing by newspapers and journals was sought to be made in an unbailable offence. It would have made a tremendous inroad into the freedom of the press. Whether or not it would have been struck down on the anvil of article 19(1)(a) is a highly debatable matter. The principle itself involves that you are wanting to curb the freedom of the press. The very basic approach is that you wanted to penalise a person who is not to your liking, who is perhaps critical of you and indulges in writing something which was described as scurrilous without describing what scurrilous is. That sort of a Bill came, it was referred by the Governor. At that time, I happened to be in the Information and Broadcasting Ministry, as it is said. As a result of my sustained dialogues with the press people, with journalists and other people in the country, ultimately the Central Government prevailed upon the State Government to withdraw the Bill. If it was not for this provision, I would like to ask the Opposition Members, what would have happened to things like that. It is not only your Government, it is our Government also. Sometimes we do act in a manner which certainly is not in the interest of the country. It certainly would work for the divisive forces and would certainly work for fissiparous forces which the hon. Member from the Communist Party says, he does not want. We also do not want. In fact, these articles have served us very well so far. And what is it? Out of 1048 Bills that were referred to, assent has been withheld only for 34 Bills. I have not heard a single hon. Member complaining that assent was withheld on unreasonable or partisan or discriminatory or political grounds. If that be the position, let us not attack unnecessarily the provisions of the Constitution.

SHRI S. W. DHABE: For some Bills assent has not been given even after seven years. That is due to political reasons.

SHRI N. K. P. SALVE: I submit, if there are Bills which are considered to be anti-national—it is stated in the statement, and if they are otherwise impinging on the constitutional validity, a decision should be taken on them. These are the only two grounds mentioned and very rightly by the Home Minister. I cannot make a grievance. I submit: Put them on the anvil, on the touchstone, of national interest, on the touch-stone of constitutional validity, and take your decision for God's sake. We will find it out. If you are having some basic, good reasons why assent is being withheld, let them come here, and we will, if necessary, deal with the matter. What is important is, out of 1,048 Bills only 34 are such in which assent has been withheld. And I would like to point out to hon. Member, Shri Jaswant Singh....

SHRI M. S. GURUPADASWAMY: It is a statistical camouflage.

SHRI N. K. P. SALVE: He is extremely fair in saying that there are weaknesses which exist. Whether people are from this side or that side, we are apt to be swayed away by our party predilictions and party affiliations. But, is it not a tribute to the just and fair working of the Constitution and working of the party that whereas as many as 1048 Bills were referred to, only 34 assents have been withheld? Why were they referred to is a matter, I cannot go into, I do not know the facts. Mr. Dhabe referred to it. Let there be a debate if assents have been withheld on grounds which are extraneous.

SHRI M. S. GURUPADASWAMY: I said, it is a statistical camouflage. You have got to consider which Bills are important and which are not. More important Bills have been kept pending.

SHRI N. K. P. SALVE: Every Bill which has been kept pending is a subject matter of concern, Mr. Gurupadaswamy.

SHRI M. S. GURUPADASWAMY: That is true. I agree with you. But more important Bills mainly have been kept pending.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Please don't interrupt.

SHRI N. K. P. SALVE: Madam, I yielded to him. The hon. Member is extremely objective in his approach. A very circumspect and restrained speech, he has made. I respect him. My answer to him is this: why do you say that (a) is important and (b) is not important. 3.00 P.M. us every Bill is important and their charge that every Bill is unimportant to us is unjustified. There are the touchstones laid down clearly and we can have no grievance with regard to our national interest and constitutionality. Then, put them on the anvil, put them on the touch-stone of national interest and put them on the touch-stone of constitutionality. If you find that assent should be withheld you are not wanting him to encourage that the assent be withheld where the expeditious working of the matter is important but let not an impression be created. Some Honourable Members said that it is either due to dereliction of duty or lethargy. This is an important matter. The provisions have served us very well. Let us not be swayed away by some set-backs. If we have some set-backs.....

SHRI B. SATYANARYAN REDDY: Definitely there is lethergy and negligence.....

SHRI N. K. P. SALVE: You can add any number of adjectives. I can give you many synonyms of this. That is not the issue. Let us not make an issue.....

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Honourable Minister will answer to all the questions. You please try to conclude.

SHRI N.K.P. SALVE: Madam, what I am trying to submit is that I am one with them. So far as the grievance of delay is concerned, it does manifest some amount of dereliction of duty and perhaps negligence. I agree with him. I go to that extent, because they must deal with the matter expeditiously. This is a very sensitive area. Why create further grounds to the field as it is? There is little federalism in the Constitution—whatever federalism is there, even that is sought to be eroded—this has been voiced by some Members from that side. That is not the intent. I worked in this party. I worked in the Government and I know that it is never the intent of the

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Government. It is only the bureaucratic lethargy and bureaucreatic inertia which causes this sort of situation anywhere standing today. But I am sure that a man like Mr. Chavan, he will take up his matter seriously. To that extent, I congratulate the hon. Members who have brought this matter. (*Time bell rings*) Only one thing I want to submit, and I have done, about the prescription of a mandatory period within which a consenus should be given. In a matter like this where the President has been given the authority to sit in judgment, in a Bill referred to by the Governor, where the test of the national interest and that of the constitutionality is there, fixed mandatory period will not augur well at all. We must trust the Governors. We must trust the President. I agree with the hon. Member, Shri Dhabeji that for this gubernatorial assignment, the Governors should be such that they conform to the description which the founding fathers of the Constitution had in their mind when they had created the office of the Governor. If we go through the speeches of Pandit Jawaharlal Nehru and Dr. B.R. Ambedkar we can find that whenever the Opposition members tried to suggest about certain qualifications and certain restrictions on the appointment of the Governor, it was pointed out by them that the Governor is going to be a person who is above petty politics; and above partisanship. He would be a friend of the State. He would be a friend of the President. A person who rises above petty party affiliations must be appointed as Governor—at least his demeanour must not give any ground for this complaint that you are serving a political party or the interest of a political party. Any violation of the spirit of the Constitution must not come about. For that we do not need any Constitutional amendment as such. Today what is of prime importance is the integrity and the unity of the country. Therefore, to raise issues that federalism is sought to be eroded or there is victimisation on political ground because of the scheme of the Constitution is extremely pernicious thought and thinking. If ever we need the Constitution like this, read the debates of the Constitution. An hon. Member from the D.M.K....

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: Not D.M.K. I am from A.I. A.D.M.K.

SHRI N.K.P. SALVE: That makes hardly any difference, unless we see both of you fighting.

Well, Madam, my submission is that the prime need today is the integrity and the unity of the country, Therefore, to attack the Constitution on the ground that it tilts too much in favour of the unitary form of Government; and there is erosion and victimisation—the States and the people are discontent is extremely, if I may submit with respect, a pernicious argument today. Under the gard of wanting to gather more and more power and authority for the States, are not fissiparous devices, tendencies, seeking to raise their heads? That is the most dangerous trend that is coming about. I submit, our Constitution served us well. Maybe, there has been an abuse. I entirely agree that there has been an abuse of the Constitution and Shri Jaswant Singh has very rightly said that it was there when the Janta Party was there. Maybe, sometimes, it is done at our hands but we rectified our errors. That is what we did in Andhra Pradesh. I want to remind Hon'ble Shri Reddy. There is a mistake we committed. We rectified it post—haste, without any delay, and in fact, if we had not committed the mistake, perhaps, Mr. Reddy's party may not have been in power and authority. They are the greatest beneficiary of our mistake. So, they should thank us. So far as that is concerned, that is my statement. Therefore, our Constitution is sacrosanct, our founding fathers have done it envisaging as visionaries of the problems which might arise a so that we do not, once again, repeat the history, have in our history the chapter on slavery They have given us a strong Centre. It is wrong to say that it is a Federal Constitution. In fact, the Constitution tilts very favourably in favour a unitary form of Grovenment and that is definitely so, purposely so, deliberately so. It has served us well and it will serve us well if we have the unity and the integrity of the nation. Thank you, Madam.

SHRI RAOOF VALIULLAH: Madam Vice-Chairman, like my senior colleague, Mr. Salve, I cannot but support the valid points raised by the Hon'ble Members from the other side but I also want to refute the wild allegations made by some of them. Madam, it is not a question whether a State is ruled by the Congress (I) Party or by any other opposition parties but these are very important issues raised in the debate about the Centre and the State rights and the Legislatures of the State passing the Bills and sending it to the Centre for clearance. Madam, the requirement of President's assent for a law passed by the State arises mainly in the area of Concurrent List. The State concerned is required to secure the assent of the President in order to save its law from becoming void on the ground of repugnancy which is a Central Act. In other matters, the assent is required even for matters covered by the State list when the State wants to avail of the provisions of Article 31(a) and 31(c) of the Constitution of India. Article 31(a) provides an umbrella to certain categories of law where the rights of the land owners or laws providing for taking over the management of any property in public interest and other subjects of social controls enunciated in Articles 31(a) and 31(c) pertaining to the laws, giving effect to certain directives referred to in Articles 31(a) and 31(c) and protection against challenge on the ground of violation of Article 14 and Article 19 provided they have been assented to by the President of India. Madam, the power to give or not to give an assent to a law passed by the State on a Concurrent subject is intended to ensure that the laws passed by the States are not contrary to the basic national policy on Concurrent subjects. The national policy on concurrent subject is supposed to be enunciated through the concerned Central law. However, occasions where the law intended to be passed by the State is repugnant to national policy do not often arise. Mostly the State Bills are sent to the Centre for clearance because they contain certain clauses against the provisions, say, of the Contract Act about the master's right to hire and fire servants, where the State wants to provide protection to certain classes of workers against arbitrary terminations. Now this cannot be considered to be contrary to the national policy. Similarly some times there are clauses to exclude the civil court's jurisdiction which might be repugnant to section 9 of the Code of Civil Procedure. Now, these are many instances to show that more often than not, such Bills are required to obtain the assent of the President on account of repugnancy with the existing Central law without being in any manner contrary to the national policy. In such matters, there should be no delay on the part of the Central Government in the matter of giving clearance.

Different considerations may arise when there are already substantive Central Acts on the concurrent subjects and the State wants to make a law repugnant to the Central Act. Also the role of the Central Government is supposed to be limited to examining whether the proposed State law is contrary to the basics of national policy on the subject-matter concerned. In cases where the Central Government finds that the State concerned wants to strike a basic departure from the national policy, the Central Government should try to sort out the issue through dialogues with the State concerned without involving any avoidable delay for the purpose. Similarly in the case of a law covered by article 31A and 31C, there is no scope for delay in the matter of deciding whether the State law deserves, in the opinion of the Central Government as viewed in the light of the national policy on the subject matter, the umbrella of article 31A or 31C, as the case may be. Madam, national policies are already defined in the Constitution and more explicitly and particularly in the chapters of fundamental rights and Directive Principles of State Policy and, of course, the Preamble of the Constitution. Therefore, the Central Government should examine whether the intended repugnancy of a particular law under article 14 and article 19 by the provisions of the State law proposed for assent, are of such a nature as to deserve denial of protection under article 31A or 31C. For example, if a State law contains a provi-

[Shri Raoof Valiullah]

sion for violation of human rights or of fundamental rights, the Central Government has then to consider whether to grant this kind of an umbrella. I will even go a step further. If such violation of fundamental rights embodied in article 14 or 19 is essentially meant to secure social justice for the weaker sections or to implement any of the Directive Principles of State Policy, there should be no reason why the assent should be denied. In any event, there should be no scope for inordinate delay on the part of the Central Government in the matter of deciding whether the Central clearance should be given to a particular State Bill.

I may point out that a Gujarat draft Ordinance to amend the Bombay Primary Education Act, 1947 and the rules of 1949, with a view to protecting the security of services of the private primary teachers who are exploited by the management and to confer powers on the Gujarat Government to prescribe conditions of service and to set up a tribunal for settling disputes between the primary teachers and the management, was sent to the Central Government as early as on the 23rd December, 1983. The Government of India has been reminded in this matter from time to time. One such reminder was sent on the 11th December, 1984, another on the 25th March, 1985 and the last one on the 22nd May, 1985. The primary teachers are naturally restive since a beneficial legislation like this is pending Central clearance for about two years. The Education Minister of Gujarat has also sent a telex reminder and ultimately Mr. Sangma, the honourable Minister of State for Home Affairs has written to me saying that he has sent the Bill for consideration and comments of the administrative Minister. It is informally understood that the Minister of Education has already cleared this Bill. The private primary teachers of Gujarat had planned to offer a satyagraha before the honourable Prime Minister's residence on 19th November 1985, the birthday of the late Prime Minister who did so much for the primary teachers and for the teaching community in general. I am happy to say that they have postponded the programme in view of the intervention of some of the honourable Members of this House and some of the honourable Members of Lok Sabha. We told them that the MPs from Gujarat have been pursuing the matter with the Government. It may be pointed out that there is no Central Act on the subject and even if the Central Government intends to bring a comprehensive legislation on primary teachers in future, there is adequate provision in the Constitution to take care of repugnancy, if any, between the State Act and the Central Act for the provision of the State Act which may be repugnant to those of the Central Act will not be operating then. There does not seem to be any justification for the delay in clearing this Ordinance. In my submission the delay, if at all, should be minimal and the question whether a Bill should be cleared or not should always be decided expeditiously in the light of the provisions of the Constitution of India. In any case, even when assent is refused, reasons should be given so that the State Government can be persuaded to amend the Bill suitably.

श्री सत्यप्रकाश मालवीय (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष महोदया, वर्तमान ध्यानाकर्षण प्रस्ताव और इस पर गृह मंत्री जी ने जो वक्तव्य दिया है वह इस बात का जीता जागता उदाहरण है जो हमारे संविधान निर्माताओं को आशंका थी कि संविधान के अनुच्छेदों को किस तरीके से कोई भी केन्द्रीय सरकार तोड़-मरोड़ सकती है। हमारा जब संविधान बनाया गया तो उसमें कानून बनाने का काम केवल विधान-सभाओं या ऐसे राज्यों की विधान सभाओं और विधान परिषदों को दिया गया था जहां पर दोनों सदन है। राज्यों के विधान मंडलों को कानून बनाने का अधिकार दिया गया था। दैनिक प्रशासन चलाने का काम कार्यकारिणी को दिया गया। इसी प्रकार से न्याय देने का काम या न्याय करने का काम न्यायपालिका को दिया गया यह सही है कि वर्तमान संविधान के अनुच्छेद 200 में और अनुच्छेद 201 में इस बात

की व्यवस्था है कि किसी प्रदेश का राज्यपाल किसी भी कानून को जो विधान मंडल ने पास कर दिया है उसको स्वीकृति प्रदान करे या अस्वीकृति करे और दुबारा उसको विधान मंडल के सामने विचार के लिए भेजे। कुछ विषयों में वह बिल को राष्ट्रपति की स्वीकृति के लिए आरक्षित कर सकता है। लेकिन संविधान की यह मंशा कभी भी नहीं थी कि नौ-नौ और दस-दस साल तक कोई भी विधेयक जो विधान मंडल ने पास कर दिया है वह राष्ट्रपति के पास आरक्षित पड़ा रहे मैं उदाहरण देना चाहता हूं। तीन ऐसे विधेयक हैं जो इस प्रकार से पड़े हुए हैं– (1) केरल केजुअल एण्ड टेम्परेरी बोटल वर्कर्स वेजज बिल, 1977–यह 11 अक्तूबर, 1977 से राष्ट्रपति के पास पड़ा हुआ है। (2) 8 मई, 1979 से बम्बई मेट्रोपोलिटन रीजनल डेवलपमेन्ट अथोरिटी (एमेन्डमेन्ट) बिल, 1979 पड़ा हुआ है और (3) मेघालय रिजर्वेशन एण्ड इम्प्लायमेन्ट बिल, 1980, 25 जुलाई 1980 से विचाराधीन पड़ा हुआ है। यह मंत्री जी की ओर से जो आंकड़े प्रस्तुत किये गये हैं उनमें यह बतलाया गया है कि 14 राज्यों के बिल हैं जो संबंधित राज्यों के विधान मंडलों ने पारित कर दिये थे, पास कर दिये थे। वे राज्यों के राज्यपालों के माध्यम से आए हैं। इन 14 राज्यों में तीन विरोधी पार्टियों के राज्य हैं अर्थात् वहां पर विरोधी पक्ष की सरकारें हैं और कुछ राज्य ऐसे हैं जहां पर उस पार्टी की सरकार है जो केन्द्र में पदासीन है। केवल पश्चिमी बंगाल के ही 15 विधेयक यहां पर विचाराधीन हैं। तमिलनाडु सरकार द्वारा पारित किये गये दस विधेयक यहां पर विचाराधीन हैं, कर्नाटक द्वारा पारित किये गये पांच विधेयक यहां पर राष्ट्रपति जी के विचाराधीन हैं। इस तरह से जो 55 विधेयक विचाराधीन हैं, 14 राज्यों के, उनमें से 30 विधेयक केवल तीन राज्यों–पश्चिमी बंगाल, तमिलनाडु और कर्नाटक के हैं। इससे इस बात की शंका होती है कि केन्द्रीय सरकार राजनैतिक दुर्भावना के कारण ऐसा कर रही है और अपनी विचार धारा के आधार पर जो विधेयक वहां की विधान मंडलों ने पारित किये हैं, उनको केन्द्रीय सरकार अपनी स्वीकृति नहीं दे रही है। हमारे संविधान की यह मंशा थी कि जो जनता द्वारा चुने हुए जन-प्रतिनिधि हैं वे विधान मण्डलों में जायें और वहां पर विचार-विमर्श करने के बाद जनता की भावनाओं का आदर करते हुए विधेयक पारित करें और उन विधेयकों को राज्यपाल या राष्ट्रपति द्वारा तुरन्त स्वीकृति देनी चाहिए लेकिन इस तरह से विधेयकों को यहां विचाराधीन रखेंगे तो यह जन प्रतिनिधि की भावनाओं और जो हमारे मतदाता हैं हमारी जनता है उसकी जो भावनायें हैं उनका निरादर करना है। इसलिये इस बारे में मैं अपना यह सुझाव देना चाहता हूं कि सारे विषय पर विचार-विमर्श करने के लिये लोकसभा और राज्यसभा, दोनों सदनों की एक समिति बनाई जानी चाहिए जो इस विषय पर विचार-विमर्श करके इस बारे में किसी निर्णय पर पहुंच सके। आखिर क्या कारण है कि 77, 78, 79, 80 से लेकर 85 हो गया, सात-सात, आठ-आठ, नौ-नौ और दस-दस साल विधेयक पास किये हो गये हैं लेकिन उनको अभी तक कानूनी शकल नहीं दी गई है। इसका मतलब साफ है कि या तो आपने जो हमारे संविधान के निर्माताओं ने अपनी मंशा व्यक्त की थी, उसका आदर नहीं करते हैं और आप जानबूझकर जिन विधेयकों को हमारे विधान मंडलों ने पारित किया है उनमें आप अड़ंगा या रुकावट डाल रहे हैं। महोदया, मैं तीन विधेयकों की ओर आप का ध्यान आकर्षित करना चाहूंगा जो कि केवल शिक्षा के क्षेत्र से संबंधित हैं। उनमें एक विधेयक कर्नाटक एजूकेशन बिल, 1983 है, दूसरा विधेयक राजस्थान सरकार का जोधपुर यूनिवर्सिटी बिल 1984 है और तीसरा पश्चिम बंगाल का कलकत्ता यूनिवर्सिटी बिल 1984 है। तो मैं मंत्री महोदय से जानना चाहता हूं कि आखिर क्या कारण है जो शिक्षा से संबंधित बिल हैं और जो विश्वविद्यालयों से संबंधित विधेयक हमारे विधान-मंडलों ने पारित किये हैं, उनको सरकार स्वीकृति प्रदान नहीं कर रही है। जो टिप्पणी प्रस्तुत की गई है उसमें इस बात को दिखाया गया है कि यहां जो मंत्रालय हैं या जो कानून से

[श्री सत्य प्रकाश मालवीय]

संबंधित विभिन्न विभाग हैं वे उन पर विचार कर रहे हैं । लेकिन मेरी जहां तक जानकारी है वह यह है कि जो भी विधेयक विधान मंडल के समक्ष प्रस्तुत किया है उसका जो प्रारूप होता है, जो ड्राफ्ट होता है, वह जाने से पहले जो वहां के कानून सचिव हैं और उस विभाग में जो कानून के ज्ञाता है उनके पास जाता है और वे उसका अवलोकन करते हैं, परीक्षण करते हैं और फिर उसको अपनी स्वीकृति देते हैं और उसके बाद उस बिल का प्रारूप विधान मंडलों के सामने रखा जाता है । इस तरह से इस बात का कोई भी औचित्य नहीं है कि राष्ट्रपति उसके कानूनी पहलू के नाम पर या राज्यपाल उसके कानूनी पहलू के नाम पर उसको अपनी स्वीकृति न दे और उसको कानूनी शक्ल न दी जाय । महोदया, मैं फिर इस बात को दोहराना चाहता हूं कि इन सारी चीजों का परीक्षण करने के लिये कि क्यों विलम्ब होता है और जो विधेयक विधान मंडलों से पास हो जाते है उनको जल्दी से जल्दी कैसे कानूनी शक्ल दी जाय, इस पर विचार-विमर्श करने के लिये दोनों सदनों के सदस्यों की एक समिति बनाई जाये ।

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Now, the honourable Minister to reply.

SHRI S. B. CHAVAN: Madam Vice-Chairman, I wish to express my thanks to the honourable Members who have expressed their views in very clear terms on the working of the Constitution insofar as it relates to the assent which is sought to be given by the President to Bills when a reference is made by the Governor in his discretionary capacity.

Madam, if you go through the statement which I have already made, you will find that there are four powers which have been given to the Governor and one of the powers is that where the Governor feels that the assent of the President is necessary, he makes a reference and thereafter the whole thing is examined by the administrative Ministry. After the whole thing is examinded by the administrative Ministry concerned, it then comes to the Home Ministry and then a reference is made to the President. In fact, in none of these Bills there is the direct involvement of the Home Ministry. I must clearly inform this House that being a nodal Ministry, my Ministry has to send the Bills to the respective administrative Ministries for their comments.

SHRI B. SATYANARAYAN REDDY: Whichever may be the department, if the officials are lethargic, if they are not competent, they must go.

SHRI S. B. CHAVAN: You should have the patience. I have heard you with rapt attention. *I did not interfere when you* were speaking on the subject.

Madam, this is the procedure which has been followed, and the scheme of the Constitution, I must say, is working very well. In fact, there has been no scope for any kind of misunderstanding. At the very outset, I must say very clearly that the proposition that it is bound to work in a partial manner, in a partisan manner, having any party point of view before the assent is given by the President is, to say the least, not a correct proposition. I would repudiate any such insinuation which has been made by the hon. Members I must also say that it is not merely in the case of non-Congress ruled States but also in the case of other States which are ruled by Congress Governments it has taken considerable time to give assent of the President. In fact, I have reduced the time for consideration by the administrative Ministries. In one of the cases I had called the representatives of the administrative Ministries and representative of the State Government, and in my presence the whole thing was discussed and we came to an agreed solution. The whole thing was cleared in this manner. I would like to assure the hon. Members that wherever I find that the pendency is in fact very long there are justifiable reasons put forth by the administrative Ministries, and where we feel that such a meeting is necessary we will *try to sort out this problem in such manner*. But there is also a limit beyond which I cannot possibly ask the administrative

Ministries to expedite certain things. I think there are very well declared policies which the hon. Members are aware of—well declared policies either in the shape of Central legislation, or where the national policy has been decided; and if there is anything which is repugnant to such a national policy or repugnant to the Central legislation in this respect, I do not think it is going to be possible for the Central Government to recommend to the President that he should give assent to those Bills. I am in full agreement with some of the hon. Members that when socio-economic programmes are involved, where the rights to be given to the labourers are involved, and which are not repugnant to the national policies declared so far, in fact, it will be a good case where the Home Ministry would request the administrative Ministries to expedite the clearance of these Bills. But there are some difficulties and it will not possible for me to go into each Bill. I may inform the hon. Members what exactly have been the difficulties so far. On the face of it, everybody feels that this is the accepted policy of the Central Government and when the same policy is being translated into the Bill by a State Government, why is it that the Central Government is trying to create obstacles in the way? I do not think it is borne out by facts. It will depend upon a large number of details, into which I would not like to go at this stage. It is for the administrative Ministry to go into details and find out what is the contradiction between the Central Government and the State policy and then inform the Home Ministry that these are the issues involved and that is why it will not be possible for them to give clearance to a Bill. But they have to make up their mind. What I can assure the hon. Members is that where I find that there is some kind of inertia or delay because of bureaucratic procedures, certainly the Home Ministry will look into the matter. I assure you that I will personally look into the matter and see that such a thing does not take place. The hon. Members said that the Education Ministry seems to have cleared this Gujarat Amendment Ordinance. I think there seems to be some communication gap. It is not borne out by facts. This is my information. I would again like to check this up. My information is that they have not yet cleared it. If they have cleared it, certainly the Home Ministry has no objection to it. We will see to it that as soon as it is cleared, we will recommend it to the President and it will not be delayed at our level. I think the whole debate seemed as if it is a kind of rehearsal for the Sarkaria Commission. This is a case which they have to put before the Sarkaria Commission. This is a kind of rehearsal which took place in the House. They just wanted to have the reaction of the Government on what articles of the Constitution need be amended on what lines. I don't think it will be possible for me to give my reaction to the different suggestions which the hon. Members have put forth. If they have any grievance, one of the terms of reference of the Sarkaria Commission is to go into this aspect. The questionnaire contains a number of questions on this issue. If they have any point of view, they are at liberty to put forth their point of view before the Sarkaria Commission. It will not be possible for me at this stage to give my reactions. The provisions of the Constitution have worked very well and I do not find any justification for changing them. This is my preliminary view. If the Sarkaria Commission feels that the constitutional provisions need be amended, then thereafter the Government will have to examine the whole thing and take a view about the recommendations of the Sarkaria Commission. Before they do that, it will not be possible for me to give my reactions on the different suggestions which the hon. Members have put forth that the provisions of the Constitution need be amended on this and this line. I don't think it will be possible for me to comment on that. I think these were the only points which were raised by the hon. Members. The points which the hon. Members have raised are very valid and very important points. Wherever any intervention is necessary by me, I can assure you that I will certainly look into them and try to expedite.

SHRI GURUDAS DAS GUPTA: On a point of clarification, may I request the hon. Home Minister to tell us whether he

[Shri Gurudas Das Gupta]

has any mind to clear at least these two important Bills which we have been repeatedly referring to help land distribution in West Bengal and secondly the Trade Union Bill? Can he tell us anything concrete or he has to refer it to the Sarkaria Commission?

SHRI S. B. CHAVAN: I do not think the hon. Members have understood me correctly. So far as the reference to the Sarkaria Commission is concerned, it is on matters of Centre-State relations and the broad policies which are being followed under the present provisions of the Constitution. As far as the two particular Bills which the hon. Member has referred to are concerned, I won't be able to give the details because they are with the administrative Ministry and I won't be able to give all the details. If the debate had been confined to one or two matters, then certainly I would have brought all the details about the particular legislations and told him as to why the administrative Ministry considers that giving assent will not be correct.

SHRI GURUDAS DAS GUPTA: Will you do it expeditiously?

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Let us finish it. Now, we are going to take up the Lighthouse (Amendment) Bill, 1985. The hon. Minister, Shri Bansi Lal, will move the motion for consideration of the Lighthouse (Amendment) Bill, 1985, as passed by the Lok Sabha.

THE LIGHTHOUSE (AMENDMENT) BILL, 1985

THE MINISTER OF TRANSPORT (SHRI BANSI LAL): Madam, I rise to move that the Bill further to amend the Lighthouse Act, 1927, as passed by the Lok Sabha, be taken into consideration.

It has been the policy that the lighthouse service should be self-supporting and the cost of providing and maintaining 'general' lighthouses should be met out of light dues levied on ships. Light dues are accordingly collected under the provisions of the Lighthouse Act from ships entering or departing from the ports in India. The persent rates of Light dues are as under: All sea-going ships other than sailing vessels Rs. 1.50 per tonne; sailing vessels—Rs. 0.06 paise per tonne.

Sub-section (1) of section (10), as amended by Act No. 37 of 1976 empowers the Central Government to prescribe rates not exceeding Rs. 1.50 per tonne at which hight dues shall by payable. The rates of light dues were accordingly enhanced to the above ceiling level with effect from 24-8-1978 and the present annual revenue from light dues is of the order of Rs. 7.00 crores. However, due to allround inerease in the cost of maintenance operation and establishment of increased navigational aids all along the country's coastline including the far—flung areas of Lakshadweep and Andaman and Nicobar Islands, the financial position of the Department of Lighthouses has become acute. It is, therefore, proposed to amend section 10(1) of the Act so that the Central Government may be enabled by notification in the official Gazette to prescribe such rates as are necessary to provide for the purposes mentioned in section (9) at which light dues shall be payable. The proposed amendment also provides for every such notification issued by the Central Government to be laid before each House of Parliament and if both Houses agree in making any modification in the notification, the said notification shall have effect only in such modified form.

It is also proposed to insert a new section 8A in the Act to ensure that no obstruction is caused in the smooth and uninterrupted functioning of lighthouses by way of growing of tall trees, construction of buildings etc. on the sea-ward side of lighthouses, as some difficulties have been experienced in recent times.

For the purpose of levy of linght dues, a ship's tonnage is, according to section 12(1) of the Act, being reckoned as under the Merchant Shipping Act, 1958, viz. N.R.T. (Net registered tonnage). Hence, no light dues can be levied on the additional cargo carried on the deck or in the containers